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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/113,446	07/10/1998	GREGG WAGNER	003470.P005	8055

7590 06/24/2004

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EXAMINER

BURNHAM, SARAH C

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/113,446

Applicant(s)

WAGNER ET AL.

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. (5,796,091) in view of Seo (6,073,852). Schmidt et al. discloses a housing (2) for a portable handheld electronic reader/scanner comprising: a hollow body portion (9) made of "a light weight plastic material using injection-molding techniques well known in the art" (column 14, lines 14-15) having an electronics enclosure portion (9A) and a handle portion (9B), said electronics enclosure portion (9A) having an aperture (12A) entirely surrounded by a body perimeter portion (9G); a substantially planar scan face (12) made of the "plastic" (column 27, line 6) adapted to cover said aperture (12A), said scan face (12) entirely surrounded by a scan face perimeter portion (9G) as best depicted in Figure 3A; the scan face (12) perimeter portion (unlabeled) disclosed in Figure 3A has a groove (unlabeled) depicted as a rectangular cut out in the end portions (unlabeled) of the scan face (12) in Figure 3A and the body perimeter portion (9G) has a projecting tongue element (unlabeled) for mating engagement with the groove (again, see Figure 3A).

With respect to claim 7, the housing (2) further comprises an end cap (9F) coupled to the handle portion (9B).

With respect to claim 8, the handle portion (9B) comprises a battery compartment (30) for housing a battery supply unit (32).

With respect to claim 11, the tongue portion (disclosed in Figure 3A) has a substantially "T"-shaped cross section located on either end of the body perimeter portion (9G).

Schmidt et al. discloses all claimed elements with the exception of a one-piece hollow body portion.

Seo (6,073,852) teaches the use of an integral head portion (22) and grip portion (21) for an electronic reader/scanner. An aperture (31) is entirely surrounded by body perimeter portion (30).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to form the handle portion (9b), the electronics enclosure portion (9A) and the body perimeter portion (9G) from a single piece of plastic as taught by Seo. Such a modification simplifies the manufacturing process by removing the need for using post to connect separately molded pieces of plastic.

3. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. (5,796,091) in view of Seo (6,073,852), as applied to claim 6 above, and in further view of Chadima (5,241,488). As disclosed above, Schmidt et al., as modified, reveals all claimed elements with the exception of a gasket disposed around the tongue element and the end cap/.

Chadima teaches the use of hand-held housing parts 41 and 42 connected by tongue and groove and having a gasket (100) for the purposes of sealing the connection.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use gaskets (100) as taught by Chadima, in the connection between the tongue element and groove element and the end cap and handle disclosed by Schmidt et al. as modified. Such a modification would ensure that moisture is prevented from entering into the housing cavity and disrupting operation by affecting the batteries and/or electronic components housed inside.

#### ***Response to Arguments***

4. The request for reconsideration received on April 5, 2004 has been received and considered in its entirety. Remaining issues are set forth in the above sections. Due to some minor adjustments in the rejection, this action has been made NON-FINAL.

Applicant argues that Seo does not teach an entire casing molded as a single undivided piece. The claim, as presented, required the teaching of a one-piece hollow body having an electronic enclosure portion, a handle portion and a body perimeter portion. The Examiner believes that the "integral" grip portion (21) and head portion (22) sufficiently show a one-piece hollow body portion having an electronics enclosure portion, a handle portion and a body perimeter portion. The Examiner would also like to point out and that although the circuit board 5 could not be inserted through the reading

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window 36, in cannot be concluded that the body portion is formed from multiple pieces. The body portion could indeed be formed around the components.

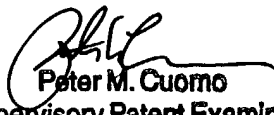
**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
June 22, 2004

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600